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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 MARK SCOTT

12 vs.

13 THE VESSEL ORION

14 Plaintiff,

15 Defendant.

CASE NO. 08cv1016 JM(BLM)

ORDER GRANTING MOTION TO
PROCEED IN FORMA PAUPERIS;
DENYING MOTION FOR
APPOINTMENT OF COUNSEL

16 On or about June 6, 2008 Plaintiff commenced this in rem action alleging that the vessel Orion
17 failed to compensate him for services rendered. Plaintiff also moves for leave of court to proceed in
18 forma pauperis and for appointment of counsel.

19 **The Motion to Proceed In Forma Pauperis**

20 Plaintiff declares that he is not currently employed, has no significant assets, and receives
21 monthly disability payments. Accordingly, Plaintiff is an individual entitled to prosecute this action
22 without the prepayment of fees. See 28 U.S.C. §1915.

23 **The Motion for Appointment of Counsel**


24 Plaintiff requests the appointment of counsel to assist him in prosecuting this civil action. The
25 Constitution provides no right to appointment of counsel in a civil case unless an indigent litigant may
26 lose his physical liberty if he loses the litigation. Lassiter v. Dept. of Social Services, 452 U.S. 18, 25
27 (1981). Under 28 U.S.C. § 1915(e)(1), however, district courts are granted discretion to appoint
28 counsel for indigent persons under “exceptional circumstances.” Terrell v. Brewer, 935 F.2d 1015,
1017 (9th Cir. 1991). “A finding of exceptional circumstances requires an evaluation of both the

1 'likelihood of success on the merits and the ability of the plaintiff to articulate [her] claims pro se in
2 light of the complexity of the legal issues involved.' Neither of these issues is dispositive and both
3 must be viewed together before reaching a decision.'" Id. (quoting Wilborn v. Escalderon, 789 F.2d
4 1328, 1331 (9th Cir. 1986)).

5 Here, it appears that plaintiff has a sufficient grasp of his case, the legal issues involved, and
6 is able to adequately articulate the basis of his complaint. Under these circumstances, the Court denies
7 plaintiff's request for appointment of counsel because it is not warranted by the interests of justice.
8 LaMere v. Risley, 827 F.2d 622, 626 (9th Cir. 1987).

9 **IT IS SO ORDERED.**

10 DATED: June 19, 2008

11 
12 Hon. Jeffrey T. Miller
United States District Judge

13 cc: All parties
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